

**AGENDA MEMO**

**CITY COUNCIL MEETING OF: DECEMBER 2, 2009**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: VAR-35778 - APPLICANT/OWNER: CARR LIVING TRUST,  
U/A**

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**\*\* CONDITIONS \*\***

Staff recommends DENIAL. The Planning Commission (7-0 vote) recommends APPROVAL

**Planning and Development**

1. Direct interior access between the addition and existing residence shall be provided and depicted in plans submitted for building permit.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a request for a Variance to allow a five-foot rear yard setback, where a 15-foot setback is required for an existing addition to a single family residence at 6017 Cottontail Cove Street. The applicant enclosed a patio cover at the rear of the residence without obtaining permits, resulting in a room addition that encroaches 10 feet into the required 15-foot rear yard setback of the property. Since the existing addition to the principle dwelling along the western property line was constructed before consulting Title 19 standards and without building permits, it has been determined that the request is a result of a self-imposed hardship. Staff recommends denial of this Variance request; if denied, the addition will have to be removed.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc and Property Sales</i></b>	
08/21/02	The City Council approved a request for General Plan Amendment (GPA-0025) to amend a portion of the Centennial Hills Sector Plan from: DR (Desert Rural Density Residential) to: R (Rural Density Residential) on approximately 10 acres located adjacent to the northwest corner of Tropical Parkway and Jones Boulevard. The Planning Commission and Staff recommended approval.
09/04/02	The City Council approved a request for a Site Development Plan Review [Z-0059-02(1)] for a proposed 41-lot single-family residential development on approximately 15 acres located adjacent to the west side of Jones Boulevard, between Tropical Parkway and Bullring Lane. The Planning Commission and Staff recommended approval.
09/04/02	The City Council approved a request for a Rezoning (Z-0059-02) from: R-E (Residence Estates) to: R-PD2 (Residential Planned Development - 2 Units per Acre) and R-PD3 (Residential Planned Development). The Planning Commission and Staff recommended approval.
12/18/02	The City Council approved a request for a Site Development Plan Review (SDR-1122) for a 73 lot single family residential development on 24.34 acres adjacent to the northwest corner of Tropical Parkway and Jones Boulevard. The Planning Commission and Staff recommended approval.
10/25/07	A deed was recorded for change of ownership.
11/05/09	<a href="#">The Planning Commission voted 7-0 to recommend APPROVAL (PC Agenda Item #18/ao).</a>
<b><i>Related Building Permits/Business Licenses</i></b>	
10/05/04	A building permit (#27471) was issued for a pool, waterfall, and 648 square feet deck at 6017 Cottontail Cove Street. The building permit was finalized on 08/03/05.

06/08/05	A building permit (#42311) was issued for a patio cover at 6017 Cottontail Cove Street. The building permit received final approval on 11/05/05.
05/06/09	A building permit (#139040) is pending for a patio enclosure to an existing exercise room at 6017 Cottontail Cove Street.
<b><i>Pre-Application Meeting</i></b>	
07/08/09	<p>A pre-application meeting was held where the submittal requirements for a Variance were discussed. Other topic discussed included:</p> <ul style="list-style-type: none"> <li>• The setback requirements for the subject parcel.</li> <li>• The criteria for approving a Variance request.</li> </ul>
<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting was not required, nor was one held.	

<b><i>Field Check</i></b>	
09/17/09	Staff performed a routine field check where a well-maintained single-family residence was observed. Staff was not able to observe the rear yard where the proposed accessory structure is to be constructed.

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Gross Acres	.19

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single-Family Residence	R (Rural Density Residential)	R-PD3 (Residential Planned Development – 3 Units per Acre)
North	Single-Family Residence	R (Rural Density Residential)	R-PD3 (Residential Planned Development – 3 Units per Acre)
South	Single-Family Residence	R (Rural Density Residential)	R-PD3 (Residential Planned Development – 3 Units per Acre)
East	Single-Family Residence	R (Rural Density Residential)	R-PD3 (Residential Planned Development – 3 Units per Acre)
West	Single-Family Residence	DR (Desert Rural Density Residential)	R-PD3 (Residential Planned Development – 3 Units per Acre)

<b><i>Special Districts/Zones</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Compliance</i></b>
<b>Special Area Plan</b>	X		Y
Centennial Hills Sector Plan	X		Y
<b><i>Special Districts/Zones</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Compliance</i></b>
<b>Special Purpose and Overlay Districts</b>		X	N/A
<b>Trails</b>		X	N/A
<b>Rural Preservation Overlay District</b>		X	N/A
<b>Development Impact Notification Assessment</b>		X	N/A
<b>Project of Regional Significance</b>		X	N/A

## DEVELOPMENT STANDARDS

<b><i>Standard</i></b>	<b><i>Required/Allowed</i></b>	<b><i>Provided</i></b>	<b><i>Compliance</i></b>
Min. Setbacks			
• Front	18 Feet	18 Feet	Y
• Side	5 Feet	5 Feet	Y
• Rear	15 Feet	5 Feet	N

## ANALYSIS

The applicant has enclosed an existing patio cover at the rear of the residence, resulting in a room addition that encroaches approximately 10 feet into the required 15-foot rear yard setback of the property. The structure is 21 feet wide by 27 feet long, 567 square feet, and is completely enclosed. Based on photos submitted by the applicant, the overall structure appears to be in good condition, and the stucco matches the existing house. Based on the plans submitted an internal access to the addition from the primary dwelling will be provided; a condition has been added to ensure the provision of the internal access.

Research of the building permit activity found that the applicant had initially obtained permits via Building and Safety for an unenclosed patio cover that was built within the required setback, in conformance with Title 19.08. The structure was later enclosed without obtaining permits. The applicant has created a self-imposed hardship by enclosing the patio and building within the required setback; therefore, staff is recommending denial of this request for a Variance.

## **FINDINGS**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by building within the required setback without obtaining the required building permits. An addition meeting the required rear yard setback would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

## **PLANNING COMMISSION ACTION**

It is recommended to add the following to condition #1

- Building permit shall be obtained and final inspection obtained within 90 days of approval by the City Council.

## **NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

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## **NOTICES MAILED**

187 by City Clerk

## **APPROVALS**

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## **PROTESTS**

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